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December 15, 1954

NEW HAMPSHIRE LAW LIBRARY

To His Excellency, the Governor
and the Honorable Council:

SEP 22 1998

CONCORD, N.H.

Gentlemen:

You have requested opinion as to whether under the provisions of R.L., c. 90, part 4, s. 17-a, as inserted by Laws of 1945, c. 188, and Laws of 1954, c. 1, the governor and council may increase the proposed award of a commission as well as reject, reduce or affirm such proposed award.

By said section the governor and council shall "make an independent evaluation" and may "indicate a sum which they feel is supported by the evidence" in addition to so indicating on the report of the commission if they consider any award to any owner of land or other property to be exclusive or not supported by the evidence.

By said section the governor and council undertake to arrive at an independent evaluation and, if they indicate a sum which they feel is supported by the evidence and that sum differs from the findings of the commission, the determination of the governor and council may prevail if made and if accepted by the governor and council to be supported by the evidence is available thereafter to the owner for acceptance "within seven days, excluding Saturdays, Sundays and holidays" and, if not so accepted by the owner the state's right of appeal accrues.

The governor and council may find a greater figure for an award contemplated by a commission if, in their judgment, they feel such increase is supported by the evidence.

Respectfully,

George F. Nelson
Assistant Attorney General

GFM/aml